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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,309	12/04/2003	Fred Bishop	60655.3200	1308
5514	7590	02/24/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			SHAH, AMEE A	
		ART UNIT		PAPER NUMBER
		3625		

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/707,309	BISHOP ET AL.	
	Examiner	Art Unit	
	Amee A. Shah	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 04 December 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-13 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-13 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 04 December 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/10/05 & 1/5/05</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Claims 1-13 are pending in this action.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because: (1) they do not include the following reference sign(s) mentioned in the description: 100; and (2) they include the following reference character(s) not mentioned in the description: 128.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The use of the trademarks MICROSOFT, WINDOWS, SOLARIS and others has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Examiner Note

Examiner cites particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-13 are rejected under 35 U.S.C. §102(e)(1) as being anticipated by Martin et al., U.S. Pat. App. Pub. No. 2002/0120519 A1, cited by applicant, (hereinafter referred to as “Martin et al.”).

Referring to claim 1. Martin et al. discloses a method for facilitating interaction between a consumer and a merchant, said method comprising:

- receiving offer information from said merchant, wherein said offer information relates to a product (*e.g.* pages 1 and 7, ¶¶0012 and 0083);
- customizing said offer information with consumer preference information to create an amended offer (*e.g.* pages 1 and 7, ¶¶0012 and 0083);
- transmitting said amended offer to a display for viewing by said consumer (*e.g.* pages 1 and 7, ¶¶0012 and 0083);
- receiving an acceptance, from said consumer, wherein said acceptance is associated with said amended offer and said acceptance includes a security feature (pages 8 and 9, ¶¶0093 and 0100 – note the security feature can be the one embedded on a credit card or an authorization code);
- amending acceptance with consumer payment information and identification information to create an amended acceptance (pages 8 and 9. ¶¶0093 and 0100); and
- transmitting said amended acceptance to said merchant (pages 8 and 9, ¶¶0093-0100).

Referring to claim 2. Martin et al. further discloses the method of claim 1 wherein said transmitting said amended offer to a display includes transmitting via at least one of television programming and web broadcast (pages 5 and 12, ¶¶ 0068 and 0129).

Referring to claim 3. Martin et al. further discloses the method of claim 1 wherein said receiving offer information includes receiving offer information relating to a product which includes at least one of a good, item, service, and soft good (e.g. page 7, ¶0086).

Referring to claim 4. Martin et al. further discloses the method of claim 1 wherein said receiving an acceptance from said consumer includes receiving an acceptance via at least one of a remote control, electronic pen, telephone, automatic dialing device, microphone, pager, radio frequency device, personal digital assistant, smart card, DVR, PVR, and simulated button (pages 7, 9 and 10, ¶¶0082, 0101 and 0102 – note the acceptance is received via PDA, telephone or simulated button, a/k/a mouse click).

Referring to claim 5. Martin et al. discloses the method of claim 1 wherein said acceptance includes a security feature including at least one of authentication, embedded certificates, consumer ID and password, identifier, data encryption, digital signature, secure file structures, and trusted third party downloads (page 9, ¶0100 – note the security feature is authentication of credit card or authorization code).

Referring to claim 6. Martin et al. also discloses the method of claim 1 further including a registration process (page 5, ¶0071).

Referring to claim 7. Martin et al. also discloses the method of claim 1 further including at least one of authenticating the consumer, restricting access to certain portions of said method and managing consumer identities (page 5, ¶¶0070-0072 – note the method manages consumer identities by not revealing them to suppliers and restricts access to certain portions of said methods by not revealing suppliers to consumers immediately and by using different forms based on whether consumer is residential or commercial).

Referring to claim 8. Martin et al. also discloses the method of claim 1 further comprising analysis of attributes of said consumer to substantially predict offer content and context (page 6, ¶0077 – note the analysis is based on consumer profile).

Referring to claim 9. Martin et al. further discloses the method of claim 1 wherein said amending acceptance with consumer payment information includes amending acceptance with at least one of consumer loyalty point information, authorization from an issuer, authorization from said system, security or wallet server authorization, consumer authentication and single use account number information (pages 6 and 9, ¶¶0077 and 0100 – note the acceptance includes authorization from user and single use account number information from credit card).

Referring to claim 10. Martin et al. also discloses the method of claim 1 further comprising developing at least one of a consumer transaction database and an offer evaluation database (pages 11-13, ¶¶0112, 0115 and 0131).

Referring to claim 11. Martin et al. further discloses the method of claim 1 wherein said transmitting said amended acceptance to said merchant includes at least one of authenticating and authorizing a transaction (page 9, ¶0100).

Referring to claim 12. All of the limitations in apparatus claim 12 are closely parallel to the limitations of method claims 1, analyzed above and are rejected on the same bases (*see also* Fig. 1).

Referring to claim 13. Martin et al. also discloses the interface device of claim 12, further comprising at least one of an offer retrieval engine, offer storage database, maintenance engine, amended offer engine, broadcast device, billing engine, authentication module, event tracker and offer evaluation device (pages 1, 6, 7 and 11-13, ¶¶0012, 0077, 0083, 0112, 0115, 0129 and 0131).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(1) Taylor et al., U.S. Pat. App. Pub. No. 2002/0147669 A1, discloses a system and method for offering a financial product customized to a customer including customizing offers, accepting the offer, storing offers, and completing the transaction, and which can also be used to reject claims 1, 3, 4, 6, 8 and 10-12 (*see, e.g.*, pages 3-7).

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(2) Angles et al., U.S. Pat. No. 5,933,811, discloses a system and method for delivering customized advertisements selected based on consumer profiles and integrated with offers from different content providers (*see, e.g., cols. 2-23*).

(3) Fano, U.S. Pat. No. 6,317,718 B1, cited by applicant, discloses a method and system for creating customized offers (*see, e.g., cols. 2 and 28-40*).

(4) Avallone et al., U.S. Pat. App. Pub. No. 2002/0147642 A1, discloses a system and method for providing a user with personalized information including shopping lists, targeted advertisements, and offers (*see, e.g., pages 2-8*).

(5) Horn et al., U.S. Pat. App. Pub. No. 2002/0156688 A1, discloses a system for customizing viewing of products for users including offering products with custom options and completing a purchase (*see, e.g., pages 7-39*).

(6) Nash et al., WO 97/20279, cited by applicant, discloses a system for presenting offers customized to individual consumers (*see entire document*).

(7) Unknown author, "Orbitz Makes Booking Vacation Packages Easier With Customized Search Options And On-Click Availability And Pricing," PR Newswire, New York, Oct. 3, 2002, pg. 1, discloses a website where offers of vacation packages are customized for consumers and transactions are completed.

(8) Unknown author, "BizRate.com Unwraps New Site Features In Time For Holiday 2001: BizRate.com Offers Holiday Hints For Finding The Right Gift At The Right Price," Business Wire, New York, Nov. 15, 2001, pg. 1, discloses a website where offers of products are customized for consumers and purchases made.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amee A. Shah whose telephone number is 571-272-8116. The examiner can normally be reached on Mon.-Fri. 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AAS

February 17, 2006

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